

R E M A R K S

The office action of September 21, 2004 has been reviewed and its contents carefully noted. Reconsideration of this case, as amended, is requested. Claims 1 through 40 remain in this case, claim 36 being amended and claim 40 being added by this response.

No new matter has been added. More specifically, the amendments to claim 36 and new claim 40 are fully supported by page 11, lines 15-27, as filed.

The numbered paragraphs below correspond to the numbered paragraphs in the Office Action.

Rejection under 35 U.S.C. §102

3. Claim 36 was rejected under 35 U.S.C. 102(b) as being anticipated by Rockwell, III (5,009,483). Applicant respectfully disagrees with the rejection.

"Unless all of the same elements are found in exactly the same situation and united in the same way to perform the identical function in prior pleaded art, there is no anticipation."

Stauffer v. Slenderella Systems of California, Inc., 254 F.2d 127, 115 USPQ 347 (9th Cir. 1957).

As amended, claim 36 reads "a) forming a preform including at least two distinct materials to be used in said fiber; and b)) drawing said preform to form said fiber, wherein said fiber includes at least one electrode."

Rockwell does not disclose a fiber including an electrode. Rockwell discusses fiber drawing in the patent. "Traditional fiber drawing, as shown in FIG. 11, may also be used. Fiber preforms 126 larger than the size of the final fiber can be heated 98 and stretch down to a smaller size. Many individual preforms may be heated simultaneously and drawn down in parallel 132. The resulting plurality of individual fibers can be combined, either before or after the drawing process, into a ribbon-like structure." (col. 17, lines 20-27). Although the fiber is drawn, the fiber does not include an electrode.

Therefore, claim 36 is not anticipated by Rockwell. Reconsideration and withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. §103

5. Claim 37 was rejected under 35 U.S.C. 103(a) as being unpatentable over Rockwell, III in view of Garito (5,729,645). Applicant respectfully disagrees with the rejection. The argument regarding the anticipation of claim 36 is incorporated herein.

Regarding claim 36, upon which claim 37 depends, Garito does not provide what Rockwell lacks. More specifically, Garito does not teach or suggest a fiber including a wire electrode. Therefore, since neither Rockwell or Garito, alone or in combination, teach or suggest claim 36, claim 36 is not obvious over Rockwell in view of Garito.

Dependent claim 37, being dependent upon and further limiting claim 36, should also be allowable for that reason, as well as for the additional recitations it contains. Reconsideration and withdrawal of the rejection of claim 37 is respectfully requested.

Allowable Subject Matter

6. Applicant gratefully acknowledges Examiner's statement that claims 1-35 and 38-39 are allowable.

Conclusion

Applicant believes the claims, as amended, are patentable over the prior art, and that this case is now in condition for allowance of all claims therein. Such action is thus respectfully requested. If the Examiner disagrees, or believes for any other reason that direct contact with Applicants' attorney would advance the prosecution of the case to finality, he is invited to telephone the undersigned at the number given below.

"Recognizing that Internet communications are not secured, I hereby authorize the PTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file."

Respectfully Submitted:

Moore

By: 

Meghan Van Leeuwen, Reg. No. 45,612
Agent for Applicant

BROWN & MICHAELS, P.C.
400 M&T Bank Building - 118 N. Tioga St.
Ithaca, NY 14850
(607) 256-2000 • (607) 256-3628 (fax)
e-mail: docket@bpmllegal.com
Dated: 2/15/16